IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.986 OF 2006

Hindurao Dnyanu Gharge ..Petitioner.

Vs.

Sarjerao Bhairu Jadhav & Ors. ..
Respondents.

....

Mr. R.G. Ketkar for the Petitioner.
Mr. P.S. Dani for the Respondents.

....

CORAM: DR.D.Y.CHANDRACHUD, J.

10th April, 2006.

P.C. :

The delay in filing an application for restoration of the suit has been condoned.

Having perused the judgment of the Civil Judge, Senior Division, Satara dated 28th November, 2005, I am of the view that the case for the exercise of the supervisory jurisdiction under Article 227 has not been made out, particularly having regard to the fact that the learned Trial Judge has not condoned the delay exercising the judicial discretion that is vested in him. However, while dismissing the Petition it is expressly clarified that the question as to whether the application for restoration under Order

IX Rule 13 is maintainable is kept open to be decided when the main application will be heard. Any observations contained in the impugned order in regard to the maintainability of the application shall not be considered by the learned Trial Judge while disposing of the application The Petition is dismissed.